1 JAMES K. MIERSMA HON. Randall L. Dunn 2 ROUTH CRABTREE OLSEN, P.S. CHAPTER 13 3535 Factoria Blvd SE #200 3 Bellevue, WA 98006 4 5 UNITED STATES BANKRUPTCY COURT 6 DISTRICT OF OREGON 7 In re: Case No. 09-39313-rld13 8 Eugene Tyrone Alwine and Bobbi Lee **OBJECTION TO CONFIRMATION BY** GMAC INC. Alwine. 10 Debtors. 11 12 GMAC Inc., (Creditor), a secured creditor in the above referenced Chapter 13 Plan, objects to 13 confirmation of Debtor's Plan pursuant to 11 U.S.C. §§1322 and 1325 and in support thereof alleges: 14 **BACKGROUND** 15 1. The Debtor herein purchased a 2006 Chevrolet Silverado Vin# 1GCJK39U26E184813 (the 16 "Vehicle") under a retail installment sale contract dated October 2, 2008. A copy of the contract is 17 attached hereto as Exhibit A. The contract provided for payments of \$415.59 for 60 months, and an 18 interest rate of 12.00%. The Debtors gave a purchase money security interest in the vehicle and the 19 contract was signed by Debtors within 910 days preceding the filing date of this Chapter 13 petition. 20 On information and belief, the vehicle was acquired for the personal use of the Debtors. If the vehicle 21 22 was acquired for some other reason than the personal use of the Debtors, the Plan does not so specify. 23 2. Creditor is the legal owner of the Vehicle as evidenced by the Certificate of Title, a true 24 and correct copy of which is attached hereto as Exhibit B. 25

OBJECTION TO CONFIRMATION - 1

ROUTH CRABTREE OLSEN, PS 3535 Factoria Blvd SE #200 Bellevue, WA 98006 425-458-2121 FAX: 425-458-2131

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- 3. On or about November 10, 2009 a petition for relief under Chapter 13 of the Bankruptcy Code was filed by the Debtor and a Chapter 13 Plan was proposed.
- 4. Creditor filed a secured proof of claim on or about November 13, 2009 in the amount of \$16,802.67 plus interest. The Vehicle was valued at \$16,802.67.
- 5. The Debtor's Plan is 36 months in length and values the Vehicle at \$13,025.00. Debtor proposes monthly payments of \$300.00 and an interest rate of 6%.

OBJECTION

6. Creditor objects to confirmation of the Plan since the Plan does not propose to pay the full balance of the contract due, \$16,802.67. Under the Bankruptcy Code now in effect, the Debtors must pay the full balance due for a vehicle purchased within 910 days of the filing if the vehicle is used for the personal use of the Debtors. Debtors give no information in their plan to explain why these Code provisions should not apply to this contract.

Dated: December 10, 2009.

ROUTH CRABTREE OLSEN

By: /s/ James K. Miersma
James K. Miersma, OSB #021623
Attorneys for Creditor

1 ROUTH CRABTREE OLSEN, P.S. Honorable Judge Randall L. Dunn 3535 FACTORIA BLVD. SE, SUITE 200 Chapter 13 BELLEVUE, WA 98006 2 TELEPHONE (425) 458-2121 3 FACSIMILE (425) 458-2131 UNITED STATES BANKRUPTCY COURT 4 DISTRICT OF OREGON 5 In re: **Chapter 13 Bankruptcy** 6 Eugene Tyrone Alwine and No.: 09-39313-rld13 7 Bobbi Lee Alwine 8 **CERTIFICATE OF MAILING** Debtors. 9 10 CERTIFICATE OF MAILING 11 I hereby certify under penalty of perjury of the laws of the State of Washington that I 12 mailed a true and correct copy of the Objection to Confirmation of Plan by Secured Creditor, 13 postage pre-paid, regular first class mail or via Electronic Message through Electronic Case 14 Filing (noted below) on the 10 day of December, 2009, to the parties listed on the attached 15 exhibit. 16 DATED this <u>10</u> day of December, 2009. 17 18 By: /s/ Abdon Valdez III 19 Legal Assistant 20 21 22 23 24 25 Certificate of Mailing ROUTH CRABTREE OLSEN, P.S.

Case 10-31675-rld13 Doc 16 Filed 12/10/09

3535 FACTORIA BLVD. SE, SUITE 200 BELLEVUE, WA 98006 TELEPHONE (425) 458-2121 • FACSIMILE (425) 458-2131

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	Mulino, OR 97042
3 4	Bobbi Lee Alwine 1300 SW 5th #1700 Portland, OR 97042
5	Todd Trierweiler
6	4721 Northeast 102nd Avenue Portland, OR 97220
7	
8	Via ECF Notice:
9	US Trustee Portland 620 SW Main Street
10	Room 213 Portland, OR 97205
11	Brian D. Lynch Chapter 13 Trustee
12	1300 Southwest 5th, #1700 Portland, OR 97201
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EXHIBIT NO. 4

TERMS AND CONDITIONS

NOTICE- ANY HOLDER, OPTHIS CONSIMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COBLE

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